

# COHEN & GREEN

August 29, 2024

Hon. Valerie Caproni, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

By Electronic Filing.

**Re: Lawless v. City of New York et al., 23-cv-09106**

Dear Judge Merchant:

I am co-counsel for Plaintiff in the case above. I write to ask the Court to enter judgment pursuant to a Rule 68 offer.

Defendants served a Rule 68 Offer of Judgment (attached) which Plaintiff accepted by letter (also attached). Therefore, Plaintiff respectfully requests that the Court endorse the attached proposed judgment.

As ever, I thank the Court for its time and consideration.

Respectfully submitted,

/s/

\_\_\_\_\_  
J. Remy Green

*Honorific/Pronouns: Mx., they/their/them*

**COHEN&GREEN P.L.L.C.**

*Attorneys for Plaintiff*

1639 Centre St., Suite 216

Ridgewood, New York 11385

Enclosures.

cc:

All relevant parties by ECF.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
THORN LAWLESS,	)	
	)	
Plaintiff,	)	
	)	
-against-	)	<b>[PROPOSED]</b>
	)	<b>JUDGEMENT</b>
THE CITY OF NEW YORK; DEPUTY INSPECTOR	)	
DANIEL G. MAGEE, OFFICER DIARMUID	)	23-CV-09106 (VEC)
O' SULLIVAN	)	
	)	
Defendants.	)	
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**WHEREAS**, Plaintiff commenced this action by filing a complaint on October 16, 2023 alleging that Defendants violated Plaintiff's rights under the federal constitution and state law; and

**WHEREAS**, on August 12, 2024, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendants offered to allow Plaintiff to take judgment against the City of New York for Plaintiff's federal claims; and

**WHEREAS**, on August 26, 2024, Plaintiff accepted Defendants' Rule 68 Offer of Judgment;

**NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Plaintiff will take judgment of liability against defendant City of New York in this action for the total sum of Ten Thousand and One (\$10,001.00) Dollars, plus reasonable attorneys' fees, expenses, and costs to the date of the offer for Plaintiff's federal claims.

2. This judgment shall be in full satisfaction of all federal and state law claims or rights that Plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of Defendants or any official, employee, or agent, either

past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

3. This judgment shall not be construed as an admission of liability by Defendants or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that Plaintiff has suffered any damages.

4. In accepting the Defendants' offer of judgment, Plaintiff releases and discharges Defendants the City of New York, Deputy Inspector Daniel G. Magee, Officer Diarmuid O' Sullivan; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by Plaintiff arising out of the facts and circumstances that are the subject of this action.

5. By accepting the offer of judgment, Plaintiff waives the Plaintiff's rights to any claim for interest on the amount of the judgment.

6. By accepting the offer of judgment, Plaintiff agrees that the aforesaid payment of Ten Thousand and One (\$10,001.00) Dollars within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless Plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If Plaintiff is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date Plaintiff submits to Counsel for Defendants a final demand letter from Medicare.

7. By acceptance of this Rule 68 Offer of Judgment, Plaintiff agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it

has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff further agrees to hold harmless defendants and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

Dated: New York, New York  
\_\_\_\_\_, 2024

\_\_\_\_\_  
HON.

# COHEN & GREEN

August 26, 2024

Yini Zhang  
Senior Counsel  
Special Federal Litigation Division  
New York City Law Department  
100 Church Street  
New York, New York 10007

By Electronic Mail.

**Re: Lawless v. City of New York et al., 23-cv-09106**

Dear Yini:

I write to inform you that Plaintiff in the above-captioned matter hereby accepts Defendants' Rule 68 Offer of Judgment dated August 12, 2024, a copy of which is attached.

I will contact you separately regarding the outstanding claims for attorney's fees and costs to see if we can reach a stipulation that would avoid the need for a formal application to the Court. We will also reach out regarding stipulating to the time necessary for a such discussions, after we enter judgment against the City.

Hope all is well, and I am pleased we are able to move this case closer to a close.

Yours, &c.,

/s/

\_\_\_\_\_  
J. Remy Green

*Honorific/ Pronouns: Mx., they/ their/ them*

**COHEN & GREEN P.L.L.C.**

*Attorneys for Plaintiff*

1639 Centre St., Suite 216

Ridgewood, New York 11385

Enclosure.

cc:

ServiceECF@law.nyc.gov



Muriel Goode-Trufant  
*Acting Corporation Counsel*

**THE CITY OF NEW YORK**  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

Yini Zhang  
*Senior Counsel*  
Phone: (212) 356-3541  
yinzhan@law.nyc.gov

August 12, 2024

**Via Email and First Class Mail**

J. Remy Green, Esq. (remy@femmelaw.com)  
Elena Louisa Cohen, Esq. (elenacohenesq@gmail.com)  
*Attorneys for Plaintiff*  
Cohen&Green P.L.L.C.  
1639 Centre Street, Suite 216  
Ridgewood, NY 11385

Re: Thorn Lawless v. The City of New York et al., 23-CV-09106 (VEC)

Mx. Green and Ms. Cohen:

I represent defendants City of New York, Deputy Inspector Daniel G. Magee and Officer Diarmuid O'Sullivan in the above-referenced matter. Enclosed please find defendants City of New York, Magee, and O'Sullivan's Rule 68 Offer of Judgment.

Sincerely,

/s/ *Yini Zhang*

Yini Zhang  
*Senior Counsel*

Encl.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
THORN LAWLESS,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.  
----- X

**RULE 68  
OFFER OF JUDGMENT**

23-CV-09106 (VEC)

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendants City of New York, Deputy Inspector Daniel G. Magee, Officer Diarmuid O’Sullivan, and any defendant who is currently or subsequently named and hereafter represented by the Office of the Corporation Counsel in this action, hereby offer to allow plaintiff Thorn Lawless to take a judgment against the City of New York in this action for the total sum of Ten Thousand and One (\$10,001.00) Dollars, plus reasonable attorneys’ fees, expenses, and costs to the date of this offer for plaintiff’s federal claims.

This judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted by written notice within 14 days after being served.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or

any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendants; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by plaintiff arising out of the facts and circumstances that are the subject of this action.

Acceptance of this offer of judgment also will operate to waive plaintiff's rights to any claim for interest on the amount of the judgment.

Plaintiff Thorn Lawless agrees that payment of Ten Thousand and One (\$10,001.00) Dollars within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If plaintiff Thorn Lawless is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date plaintiff submits to counsel for defendants a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, plaintiff Thorn Lawless agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff Thorn Lawless further agrees to hold harmless defendants and all past and present officials, employees, representatives and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.



The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York  
August 12, 2024

MURIEL GOODE-TRUFANT  
Acting Corporation Counsel of the  
City of New York  
*Attorney for Defendants City, Magee, and  
O'Sullivan*  
100 Church Street, Room 3-178  
New York, New York 10007  
(212) 356-3541  
yinzhan@law.nyc.gov

By s/ *Yini Zhang*  
Yini Zhang  
*Assistant Corporation Counsel*

To: VIA FIRST CLASS MAIL AND EMAIL

J. Remy Green, Esq.  
Cohen&Green P.L.L.C.  
1639 Centre Street, Suite 216  
Ridgewood, NY 11385  
929-888-9480  
Email: remy@femmelaw.com

Elena Louisa. Cohen, Esq.  
Cohen&Green P.L.L.C.  
1639 Centre Street, Suite 216  
Ridgewood, NY 11385  
929-888-9650  
Email: elenacohenesq@gmail.com

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
THORN LAWLESS, )  
 )  
Plaintiff, )  
 )  
-against- )  
 )  
THE CITY OF NEW YORK; DEPUTY INSPECTOR )  
DANIEL G. MAGEE, OFFICER DIARMUID )  
O' SULLIVAN )  
 )  
Defendants. )  
-----X

**DECLARATION OF  
SERVICE OF ACCEPTANCE  
OF RULE 68 OFFER OF  
JUDGMENT**

22-CV-09106 (VEC)

J. REMY GREEN hereby declares under penalties of perjury:

1. I am over 18 years of age and not a party to this action.
2. On August 26, 2024, I served upon the Defendants the attached August 26, 2024 letter accepting Defendants' Rule 68 Offer of Judgment dated August 12, 2024 by e-mailing a letter accepting the offer, pursuant to the terms of the offer.

Dated: Ridgewood, NY  
August 26, 2024

\_\_\_\_\_/s/\_\_\_\_\_  
J. Remy Green